

37 Am. Jur. 2d Fraud and Deceit § 158

American Jurisprudence, Second Edition | May 2021 Update

Fraud and Deceit

George Blum, J.D., John Bourdeau, J.D., Romualdo P. Eclavea, J.D., Janice Holben, J.D., Karl Oakes, J.D. and Eric C. Surette, J.D.

IV. False Representations

G. Representations and Statements as to Particular Matters

2. Title, Location, Quantity, and Quality of Property

a. Title, Ownership, and Encumbrances

(2) Transactions Involving Real Estate

§ 158. Representations by purchaser or grantee

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  27, 28

Forms

[Am. Jur. Pleading and Practice Forms, Fraud and Deceit § 187](#) (Complaint, petition, or declaration—For rescission—Fraud in procuring deed—Deed represented as being another type of instrument—Deed misrepresented as being lease)

There are many instances in which misrepresentations made by a purchaser as to the validity of the title of the vendor or the extent of the vendor's interest in the land, when taken in connection with the peculiar circumstances, have been held to constitute a fraud.¹ Thus, misrepresentations to the owner of real estate as to the extent of the owner's interest in the property, the owner being ignorant with reference thereto, and the purchaser having knowledge of the extent of the owner's interest, are actionable.² Even though a purchaser acts honestly or without an intention to deceive, a purchaser's making of a materially false statement as to the vendor's title may entitle the latter to avoid the transaction³ although, according to most courts, it is essential in an action at law for deceit to show that the defendant either knew that the statement that the defendant made was false or that the defendant made it under circumstances raising a presumption of knowledge.⁴

A mere expression of an opinion by the purchaser as to the state of the vendor's title to property will not usually amount to such a misrepresentation as will entitle the vendor to relief, and this is especially true where the opinion is based on a legal conclusion and the purchaser does not claim any legal or special knowledge of titles.⁵ Fraud may, however, be predicated upon the grantee's opinionative statements as to title when accompanied by false statements of underlying facts.⁶ Also, where a person having or professing to have a superior knowledge of the law obtains the property of another by a false statement as to the validity of the owner's title, this amounts to fraud in equity.⁷

© 2021 Thomson Reuters. 33-34B © 2021 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

- 1 [Woodrow v. Riverside Greyhound Club](#), 192 Ark. 770, 94 S.W.2d 701 (1936); [Tewmey v. Tewmey's Assignee](#), 251 Ky. 489, 65 S.W.2d 479 (1933).
Open slander of title by one who becomes a secret purchaser is prima facie evidence of fraud. [Weitzell's Lessee v. Fry](#), 4 U.S. 218, 4 Dall. 218, 1 L. Ed. 807, 1800 WL 3176 (Pa. 1800).
- 2 [Seeger v. Odell](#), 18 Cal. 2d 409, 115 P.2d 977, 136 A.L.R. 1291 (1941).
- 3 [Kathan v. Comstock](#), 140 Wis. 427, 122 N.W. 1044 (1909).
- 4 §§ 119 to 123.
- 5 [Morse v. Duryea](#), 174 Ky. 234, 192 S.W. 477 (1917).
- 6 [Kathan v. Comstock](#), 140 Wis. 427, 122 N.W. 1044 (1909).
- 7 [White v. Harrigan](#), 1919 OK 352, 77 Okla. 123, 186 P. 224, 9 A.L.R. 1041 (1919); [Ward v. Baker](#), 135 S.W. 620 (Tex. Civ. App. 1911), writ dismissed.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.